



THE CITY OF NEW YORK
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Via ECF

The James C. Francis, IV
United States Magistrate Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: Botbol, et al. v. City of New York, 05 civ. 1572 (RJS) (JCF)

Dear Judge Francis:

As counsel for defendants in the above-referenced RNC action, I write in further response to the letter by Plaintiff of today's date in which counsel agreed to withdraw without prejudice his application concerning issues relating to expert discovery. While defense counsel appreciates Mr. Rosen's withdrawal of his letter, it does not – and respectfully should not – negate his failure to comply with Your Honor's rules. As Your Honor is more than well-aware, these RNC cases have been heavily litigated for the past ten years, and counsel had an affirmatively duty and obligation to familiarize himself with the record before proceeding as he did. Mere fact that he is new to these cases should not absolve him of that responsibility. Plaintiff's application was premature, and it necessitated a swift response by Defendants, thereby diverting time away from other tasks, including the filing of Defendants' Objections to Plaintiff's Rule 72(a) motion, due today. Accordingly, Defendants respectfully request that Plaintiff's application be summarily denied. We thank the court for its consideration.

Respectfully submitted,

/s/ Cheryl Shammas
Cheryl L. Shammas

Cc.: Plaintiff's counsel (via ECF)